Remarks / Arguments

Claims 6 and 28 have been amended to address the Examiner's objections. Claim 28 has also been amended to further clarify the thickness term. Support for these amendments is found at least at page 8, lines 17 -18 and Figure 4. No new matter has been added. Reconsideration of the present application in view of the foregoing amendments and the following remarks is respectfully requested.

The present invention provides an absorbent article configured for disposition within the vestibule of a female wearer. The absorbent article comprises an absorbent having an upper surface and a configuration that defines at least one fluid intake enhancement means. The fluid intake enhancement means is located on the upper surface and is capable of allowing bodily fluids to be more rapidly absorbed into the absorbent. In particular aspects, the slit can extend through at least about 50 percent of the z-axis thickness of the absorbent, and the slit can be configured to provide an increased surface area of the absorbent when the article is folded prior to disposition within the vestibule of the wearer. Other aspects are set forth in the specification and claims.

The article of the invention can allow bodily fluids to be more rapidly absorbed into the absorbent when the article is folded from a previous condition where the upper surface of the article is flat or concave. Additionally, the article can reduce chafing and irritation of the wearer, can provide an improved fit that is less likely to become dislodged from the wearer, and can help reduce the likelihood of undesired leakage.

Claims 1, 3-5, 9, 21-23, 27, and 28 have been rejected under 35 U.S.C. § 102 as allegedly being unpatentable over U.S. Patent Number 6,254,584 to Osborn III, et al. (hereinafter Osborn). The rejection is respectfully **traversed** to the extent that it may apply to the currently presented claims.

As described by Osborn, an interlabial absorbent structure comprises a pair of absorbent panels that are sufficiently flexible such that the panels can, at least partially, conform to the walls of a wearer's interlabial space. The panels are joined by an isthmus which is positioned farthest into a wearer's interlabial space when the interlabial absorbent product is worn. Alternative embodiments of the isthmus are also described which direct bodily fluids that are deposited thereon along the longitudinal length of the interlabial absorbent structure.

Osborn, however, does not disclose or suggest an article comprising an absorbent, where the absorbent has an upper surface, and the upper surface has a slit located thereon, as called for by Applicants' currently presented claims. The Examiner points to element 127, as shown in Figure 4 of Osborn, and labels element 127 a "slit." However, Osborn describes element 127 as a

"channel" formed by folding the isthmus in a "V" shape. (Osborn; col. 11: ll. 40-46). Osborn further discloses that the folded channel 127 distributes deposited bodily fluids in the longitudinal direction. (Osborn; col. 11: ll. 57-60). Webster's defines a "channel" as a long gutter, groove, or furrow. (**Merriam-Webster's Collegiate Dictionary**, 10th Edition, © 2001, © 1993, page 190). As disclosed in the present application, a slit is a long narrow cut (e.g. Figures 11, 12, 13, and 14). Accordingly, Osborn does not disclose or suggest an article comprising an absorbent, where the absorbent has an upper surface, and the upper surface has a slit located thereon, as called for by Applicants' currently presented claims.

Secondly, Osborn does not teach a construction where a slit extends through at least about 50 percent of the thickness of the absorbent as called for by Applicants' currently presented claims. The examiner states "The slit 127 extend[s] through at least 50% of the thickness of the absorbent 30, as shown in Figure 4... ." (OA 07/29/2003 at page 2). As discussed above, the folded channel of Osborn is not a slit as disclosed in Applicants' specification. Even assuming, *arguendo*, that the folded channel 127 might qualify as a slit, the folded channel does not extend through at least 50% of the thickness of the absorbent 30. Indeed, the folded channel 127 does not extend through any of the thickness of the absorbent, it is a channel formed by folding the isthmus. (col. 11: ll. 44-53). The thickness of the absorbent is uncut.

Finally, Osborn does not teach a configuration where the slit is configured to provide an increased surface area of the absorbent which allows bodily fluids to be more rapidly absorbed into the absorbent when the article is folded prior to disposition within the vestibule of the wearer, as called for by the claimed invention. To the extent that the isthmus taught by Osborn might reduce the thickness of the Osborn article, the isthmus retains the same exposed surface area, whether the Osborn article is folded or unfolded.

As a result, when compared to the configurations called for by Applicants' currently presented claims, the structures taught by Osborn would be less able to provide an increased surface area when the article is folded from a previous condition where the upper surface is flat and would be less able to rapidly absorb bodily fluids into the absorbent. Additionally, the structures taught by Osborn would be less able to reduce the likelihood of undesired leakage. It is, therefore, readily apparent that Osborn does not disclose or suggest Applicants' claimed invention.

Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 102 are respectfully requested.

Claims 1, 6-9 and 24-28 have been rejected under 35 U.S.C. § 102(e) as allegedly being unpatentable over U.S. Patent Number 6,319,238 to Sartorio et al. (hereinafter Sartorio). The rejection is respectfully **traversed** to the extent that it may apply to the presently presented claims.

Sartorio describes an absorbent article designed and configured to fit between the labia. The article employs a plurality of stacked, flexible elements. FIG. 2 of Sartorio shows an end view of an alternative embodiment of an article comprising a base member and channels between adjacent flexible elements.

Sartorio, however, does not disclose or suggest an article comprising an absorbent, where the absorbent has an upper surface, and the upper surface has a slit located thereon, as called for by Applicants' currently presented claims and specification. The Examiner points to element 40, as shown in Figures 2, 3, 4, and 6 of Sartorio, and labels element 40 a "slit." However, Sartorio describes element 40 as a "channel" defined between adjacent flexible elements. (Sartorio; col. 3: ll. 12). As discussed above with regard to Osborn, the channel 40 of Sartorio is clearly not a "slit" as disclosed in Applicants' currently presented claims and specification. As set forth in the present application a slit is a long narrow cut (e.g. Figures 11, 12, 13, and 14). The disclosure of Sartorio does not disclose or suggest an article comprising an absorbent, where the absorbent has an upper surface, and the upper surface has a slit located thereon as called for by Applicants' currently presented claims.

Neither does Sartorio teach a construction where the slit extends through at least about 50 percent of the z-axis thickness of the absorbent, as called for by the presented claims. The Examiner points to Figure 5 of Sartorio stating, "The slits 40 extend through at least 50% of the thickness of the absorbent 30... . " (OA 07/29/2003 at page 4). To the contrary, the structure illustrated in Figure 5 and further illustrated in cross-section in Figure 6 shows a structure with channels extending into the lateral width dimension of the interlabial article, not the thickness. Sartorio defines element 22 as a body-facing side that penetrates the labia (Sartorio; col. 2: line 61) and element 23 as an opposing side (Sartorio; col. 2: lines 61-62). Sartorio calls the distance from side 22 to side 23 the height 24 as illustrated in Figures 5 and 6. The height dimension 24 of Sartorio, therefore, corresponds to the z-axis thickness dimension recited in Applicants' claims and specification. (e.g. Applicants' specification at page 8, lines 17 -18 states: "The absorbent (66) generally has a thickness, caliper or height (H), as illustrated at least in FIG. 4, measured along a line lying generally parallel to the z-axis."). Therefore, the disclosure of Sartorio does not disclose or suggest an article comprising an absorbent, where the absorbent has an upper surface, and the upper surface has a slit located thereon and the slit extends through at least about 50 percent of

the z-axis thickness of the absorbent as called for by Applicants' currently presented specification and claims.

Sartorio also does not teach a configuration where the slit is configured to provide an increased surface area of the absorbent which allows bodily fluids to be more rapidly absorbed into the absorbent when the article is folded prior to disposition within the vestibule of the wearer, as called for by the claimed invention. To the extent that the channels taught by Sartorio extend into the thickness of the Sartorio article, the channels would at best retain the same exposed surface area when the Sartorio article is folded for disposition in the vestibule of the wearer. In all likelihood, the channels would close and reduce the amount of exposed surface area. Accordingly, the structure taught by Sartorio would not provide the configurations called for by the claimed invention and would operate in a contrary manner.

As a result, when compared to the configurations called for by Applicants' currently presented claims, the structures taught by Sartorio would be less able to provide an increased surface area which allows bodily fluids to be rapidly absorbed into the absorbent when the article is folded from a previous condition where the upper surface of the absorbent is flat or concave. Additionally, the structures taught by Sartorio would be less able to reduce irritation and chafing, and would be less able to reduce the likelihood of undesired leakage. It is, therefore, readily apparent that Sartorio does not disclose or suggest Applicants' claimed invention.

Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 102(e) are respectfully requested.

For the reasons stated above, it is respectfully submitted that all of the presently presented claims are in form for allowance. Accordingly, reconsideration and withdrawal of the rejections, and allowance of the currently presented claims are earnestly solicited.

Please charge any prosecutional fees that are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

The undersigned may be reached at: 920-721-2435.

Respectfully submitted,

JAMES J. HLABAN, ET AL.

By: Paul Yee

Paul Yee
Registration No.: 29,460
Attorney for Applicants

CERTIFICATE OF MAILING

I, Judith M. Anderson, hereby certify that on September 12, 2003 this document is being deposited with the United States Postal Service as first-class mail, postage prepaid, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

By: Judith M Anderson
Judith M. Anderson